UNITED
NATIONS

CAT

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Distr.
GENERAL

CAT/C/SR.144/Add.2
28 April 1993

Original: ENGLISH

COMMITTEE AGAINST TORTURE

Tenth session

SUMMARY RECORD OF THE THIRD PART (PUBLIC)* OF THE 144th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 22 April 1993, at 3.35 p.m.

Chairman: Mr. VOYAME

CONTENTS

Consideration of reports submitted by States parties under article 19 of the Convention (continued)

* The summary record of the first part (public) of the meeting appears as document CAT/C/SR.144 and that of the second part (closed) of the meeting as document CAT/C/SR.144/Add.1

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CONTENTS (continued)

First supplementary report of Sweden (continued)

Supplementary report of China (continued)

Submission of reports by States parties under article 19 of the Convention (continued)

Future meetings of the Committee

Organizational and other matters (continued)

The resumed public meeting was called to order at 3.35 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 4) (continued)

First supplementary report of Sweden (continued) (CAT/C/17/Add.9)

1. At the invitation of the Chairman, Mr. Lindholm and Ms. Fridström (Sweden) took seats at the Committee table.

2. The CHAIRMAN invited Mr. El Ibrashi to read out the Committee's conclusions on the supplementary report of Sweden.

3. Mr. EL IBRASHI (Country Rapporteur) said that the Committee had reached the following conclusions:

"The Committee against Torture examined in detail on 22 April 1993 the supplementary report of Sweden.

"It expresses its satisfaction that there were no allegations that persons deprived of their liberty had been subjected to ill-treatment amounting to torture nor was there any other evidence of torture found in Sweden.

"Thus in all respects Sweden meets the standards of our Convention.

"The Committee is pleased to conclude that the legal and administrative regimes it describes are models to which most other countries should aspire."

4. The CHAIRMAN said he was happy to observe that the conclusions of the Committee on the supplementary report of Sweden were very positive. In that connection it would be recalled that the initial report of Sweden had been the first to be considered by the Committee in the early stages of its operations.

5. Mr. Lindholm and Ms. Fridström (Sweden) withdrew.

The meeting was suspended at 3.40 p.m. and resumed at 3.45 p.m.

Supplementary report of China (continued) (CAT/C/7/Add.14)

6. At the invitation of the Chairman, Mr. Jin Yongjian, Mr. Liao Jincheng, Mr. Zhang Yishan, Mr. Chen Weidian, Mr. Zhand Jun, Mr. Hao Chiyong, Mr. Li Yuqian, Mr. Shen Yongxiang, Mr. Liu Zhenmin and Ms. Li Linmei (China) took seats at the Committee table.

7. The CHAIRMAN welcomed the representatives of China.

8. Mr. MIKHAILOV congratulated the Chinese delegation on its supplementary report and oral presentation. The Chinese Government had replied to all the questions and remarks of members of the Committee. The replies had been quite specific, objective and sincere. There had been marked progress in China from the standpoint of the struggle against torture and respect for human rights in

general. The Chinese Government had cooperated in a very helpful way with the Committee and had given a thorough, far-reaching and precise report. All problems had clearly not yet been solved and it would be necessary to expand the reform of legislative, judicial and administrative practice.

9. He endorsed the questions which had been asked by members of the Committee at the previous meeting. He had two additional questions. The first related to paragraph 49 of the report concerning "crimes of counter-revolution" and "political crimes". He would like to know whether, in legislative and judicial practice, there was any difference between crimes of counter-revolution and crimes of internal terrorism. Did counter-revolutionary crimes not include crimes of internal terrorism?

10. His second question concerned the last sentence of paragraph 63. He would like to know what mechanisms existed in China for implementing the Convention against Terrorism, securing convictions for acts of terrorism and imposing appropriate penalties. Also, did the Chinese Government intend to revise its Penal Code by establishing specific provisions for problems related to terrorism?

11. The CHAIRMAN expressed appreciation for the informative report, which met the Committee's requirements, and China's replies to questions raised four years earlier. The issue of the rights of a detained person, especially at the time of arrest, were very important. In that connection he would like to know when a detainee could contact his lawyer and family. What was the duration of pre-trial custody?

12. A point raised by Mr. Burns concerned paragraph 71, which indicated that an order from a superior officer did not confer immunity from legal proceedings, but no specific reference was made to the legal or constitutional provisions affirming that principle. Further information on that question would be very useful and could be included in the next report.

13. Paragraph 46 stated that, when a fixed-term penalty of between one and three years was imposed, the person concerned or his family was entitled to know the reasons for, and length of, such penalty. Did that mean that if the penalty was not of one to three years' duration, that right did not apply?

14. He would welcome further information on the regulation concerning refoulement referred to in paragraph 73 and on the sanctions applicable to crimes of torture, which were mentioned in paragraph 74. Paragraph 82 raised the question how Chinese law established rules for jurisdiction within the terms of article 5 of the Convention, and again more detailed information would be welcome. The report was similarly lacking in specific detail concerning articles 6 and 7 of the Convention. In particular, he was surprised by the statement in paragraph 91 that a defendant was given only seven days' notice of the charges against him before the start of the hearing.

15. It appeared from paragraph 99 that China had not yet adopted an extradition law, a situation which would seem to be at variance with the provisions of article 8 of the Convention. Similarly, Chinese law did not seem to cover all the requirements laid down in article 9. In connection with article 11, he would be grateful for more details concerning the statistics of

cases of torture received by the procuratorates which were given in paragraph 108. Turning to article 12, he wondered whether the procedure by which the competent administrative or judicial services received complaints (para. 113) was automatic.

16. Although statistics regarding torture in China must be seen in the light of the country's enormous population, and the difficulty of ensuring uniform enforcement of the law throughout its vast territory, it was apparent that the practice of torture had not merely not been eradicated, but was indeed quite widespread. He did not attribute that to government policy, but it was none the less a disturbing fact. He hoped that the next report would provide information on the measures the Government was taking to eliminate torture.

17. Mr. JIN Yongjian (China) said that a number of important issues had been raised and his delegation would give its replies the following day.

18. Mr. Jin Yongjian, Mr. Liao Jincheng, Mr. Zhang Yishan, Mr. Chen Weidian, Mr. Zhang Jun, Mr. Hao Chiyong, Mr. Li Yuqian, Mr. Shen Yongxiang, Mr. Liu Zhenmin and Ms. Li Linmei (China) withdrew.

SUBMISSION OF REPORTS BY STATE PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 3) (continued)

19. Mr. BRUNI (Secretary of the Committee) said that, with regard to the submission of reports of States parties under article 19 of the Convention, he wished to draw the attention of members of the Committee to the annotations to agenda item 3 which appeared in document CAT/C/22 and to documents CAT/C/5, 7, 9, 12, 16/Rev.1 and 21. Those documents contained the lists of States parties which were due to submit their initial reports between 1988 and 1993. The lists of States parties whose first supplementary report was expected in 1992 or 1993 appeared in documents CAT/C/17 and 20.

20. On the status of the submission of reports due in 1988, he wished to point out that of the 27 initial reports due, 25 had been submitted to the Committee. The States parties whose reports had not yet been received were Uganda and Togo. In that connection, the Committee would recall that at its seventh session it had invited Togo and Uganda to submit their initial reports, and the supplementary reports to be presented in 1992, in a single document. Also, pursuant to the decision taken by the Committee at its eighth session concerning States parties whose report was more than three years overdue, the Chairman of the Committee had, in July 1992, addressed a letter to the Ministers for Foreign Affairs of Uganda and Togo, drawing their attention to the obligations undertaken by their respective Governments with regard to the preparation of reports, but no reply had so far been received.

21. In connection with the submission of reports due in 1989, he pointed out that 10 reports had been requested and that nine had been submitted to the Committee. In conformity with rule 65 of the Committee's rules of procedure, and the relevant decisions of the Committee, four reminders had been sent to Guyana, whose report was more than three years late. The Chairman had also sent a letter on the same subject to the Minister for Foreign Affairs of Guyana in July 1992. That country's report had not so far been received.

22. In 1990, 11 initial reports had been due but three had not yet been received by the secretariat, namely, those of Brazil, Guinea and Portugal. Three or four reminders, as appropriate, had been sent to those States parties. Portugal's report was now more than three years overdue. The report of Poland had been received some days previously, and its consideration would be included in the agenda for the Committee's next session, in November 1993.

23. In 1991, seven initial reports had been due, but three had not yet been received by the secretariat, and reminders had been sent to the States parties concerned, namely, Guatemala, Malta and Somalia. The Committee would perhaps recall that Liechtenstein had submitted its report in July 1992, but, after consultation with the Chairman, the secretariat had requested the Government of Liechtenstein to complete its report in accordance with the Committee's guidelines. The report had not yet been received.

24. In 1992, 10 initial reports had been due, but nine had not yet been submitted, namely those of Croatia, Cyprus, Estonia, Israel, Jordan, Nepal, Venezuela, Yemen and Yugoslavia (Serbia and Montenegro). Jordan had reported, in December 1992, that its report was under preparation.

25. In 1993, seven initial reports were due, one of which, namely that of Monaco (due in January), had not yet been received.

26. Paraguay had submitted its initial report (CAT/C/12/Add.3) in January 1993. Consideration of the report would be included in the agenda for the Committee's next session in November 1993.

27. In all, throughout the period June 1988 to April 1993, 66 initial reports had been due, 47 had been submitted and 19 were overdue.

28. With regard to periodic reports, 26 reports had been due in 1992: 11 had already been submitted and 15 were overdue. Egypt had submitted its periodic report in April 1993, and its consideration would be included in the agenda for the next session of the Committee. Colombia had stated that its report was under preparation.

29. The secretariat had transmitted the conclusions of the Committee to States whose reports had been considered at the ninth session, held in November 1992. Some of those conclusions had requested additional information. The United Kingdom had been anxious to send the Committee the information which had been requested during the consideration of its initial report on the dependent territories. That information, which was at the Committee's disposal, would be reproduced subsequently in a document.

30. The CHAIRMAN said that in the light of Mr. Bruni's report, the Committee needed to decide how to encourage States parties to fulfil their obligations under article 19 of the Convention. As Guyana's report had been outstanding for more than four years, the Committee should proceed as it had done with other States parties in similar situations and request that its initial and periodic reports be included in a single document. Uganda and Togo, whose reports were also more than four years overdue, had been given several reminders but, despite the Committee's best efforts, had not remedied the situation.

31. With regard to Portugal, which was three years behind in the submission of its report, the most appropriate action would be for the Chairman to contact the Permanent Representative at Geneva, as had been done with regard to Peru; that approach had proved successful. When dealing with States parties without permanent representation at Geneva, personal contacts by members of the Committee with officials in foreign ministries, for example, should be exploited to the full in the interests of the punctual submission of reports.

32. Mr. MIKHAILOV said that the Committee should take care not to engender a situation whereby States parties, far from being sanctioned for their failure to submit reports on time, were given considerable leeway and asked to submit just one report, which seemed unfair on other more conscientious States parties. States parties with nationals on the Committee should be encouraged to make a particular effort to fulfil their reporting obligations.

33. The CHAIRMAN said that at a previous session the Committee had expressed misgivings about encouraging the tardy submission of reports and had not been entirely satisfied with the course of action chosen. However, in practical terms, no viable alternative had been found. Given that representations to States parties had been of no avail, he suggested that the Committee should consider drawing attention to the efforts it had made and the subsequent lack of response in its report.

34. Mr. LORENZO said he fully endorsed the inclusion of an appropriate paragraph in the report, which would subject the States parties to the indignity of exposure at the General Assembly. They would be more likely to bow to such additional pressure.

35. It was so decided.

36. The CHAIRMAN reminded the Committee that Country and Alternate Country Rapporteurs needed to be appointed for the reports of Egypt, Paraguay and Poland. Over the years, it had become standard practice for such posts to be occupied by members with a cultural or linguistic tie with the relevant country, although there were no hard and fast rules governing eligibility.

37. Mr. GIL LAVEDRA, supported by Mr. LORENZO, observed that the role of Country and Alternate Country Rapporteurs was most effective when geographical or cultural proximity was respected.

38. The CHAIRMAN said he understood that it was the Committee's wish to continue its customary practice. Thus, if there was no objection, the Country and Alternate Country Rapporteurs would be: Mr. Mikhailov and Mr. Khitrin for Poland; Mr. Lorenzo and Mr. Gil Lavedra for Paraguay; and Mr. Dipanda Mouelle for Egypt. Mr. Sorensen would be invited to accept the post of Alternate Country Rapporteur for Egypt.

39. It was so decided.

FUTURE MEETINGS OF THE COMMITTEE (agenda item 7)

40. The CHAIRMAN read out the following approved dates for subsequent sessions of the Committee: 1 to 19 November 1993 (eleventh session); 18 to 29 April 1994 (twelfth session); 7 to 18 November 1994 (thirteenth session); 24 April to 5 May 1995 (fourteenth session); 10 to 24 November 1995 (fifteenth session).

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

41. The CHAIRMAN said he wished to report to the Committee on a matter he had dealt with since the ninth session. Information had been received concerning the presence on French territory of a Mauritanian citizen, Colonel Sid'Ahmed Ould Boïlil, suspected of involvement in acts of torture and summary executions between September 1990 and February 1991 in Mauritania. Mr. Roland Dumas, the French Minister for Foreign Affairs, had been duly apprised of the situation and informed that the Convention against Torture, to which France was a party, provided for measures to be taken against persons suspected of torture in article 4 (1), article 5 (2) and article 6 (1) and (2), even when the person concerned was a national of a country not party to the Convention. The French Ministry of Foreign Affairs had subsequently reported that Colonel Sid'Ahmed Ould Boïlil was no longer on French territory and that information regarding the presence of other persons suspected of such human rights violations would be investigated pursuant to the relevant articles of the Convention.

42. Mr. BURNS said that he had reservations about the interpretation of articles 4, 5 and 6, and in particular whether they extended to the situation described, when the suspect was a national of a non-party State and on foreign territory. He asked the Chairman to explain the grounds for his conclusions.

43. The CHAIRMAN said he would prefer to report back to the Committee on that matter at a later date, given the amount of time which had elapsed since he had reached his interpretation.

Consideration of the Committee's methods of work (CAT/C/X/Misc.3)

44. Mr. BRUNI (Secretary of the Committee) said that the secretariat had prepared an information paper concerning the methods of work of other international treaty bodies (CAT/C/X/Misc.3), but the paper was currently available only in English and Russian; he understood that the French text was almost ready and that the Spanish text was still in translation.

45. The CHAIRMAN said he hoped that all the language versions would be available in time for the Committee to discuss the text early in the coming week. He expected that the Committee, which had been improving its methods of work during the past few years, would be able to improve them further.

Invitation to the Committee to visit Mexico

46. At the invitation of the CHAIRMAN, Mr. LORENZO read out the text of a letter dated 4 February 1993, addressed to the Chairman by Ms. Diaz Palacios, a former member of the Committee, who had been appointed Under-Secretary for

Civil Protection and Social Rehabilitation in Mexico. In the letter, she conveyed an invitation to the Committee, from the Mexican Government, to visit the country, and requested the Chairman to indicate what dates would suit the Committee. The letter had been followed by a cable from Mexico City, dated 16 February 1993, addressed to the United Nations Office at Geneva, for the Chairman's attention.

47. The CHAIRMAN said that a reply had been sent on his behalf on 25 March 1993, congratulating Ms. Diaz Palacios on her appointment and informing her that he would discuss the invitation with the members of the Committee at its current session and reply as quickly as possible.

48. Mr. BURNS said that such an invitation was unusual and the Committee's response must be cautious. A visit without a working agenda might possibly be construed as tacit support for the Government by the Committee.

49. Mr. GIL LAVEDRA agreed.

50. The CHAIRMAN said that a visit of a social nature was clearly out of the question. For budgetary and administrative reasons, the holding of a session of the Committee in another country was likewise ruled out. An assistance mission consisting of one or two members of the Committee would, of course, be a different matter.

51. Mr. EL IBRASHI agreed with the Chairman, particularly in regard to assistance missions. Experience had shown the latter to be extremely useful, especially in disseminating information about the Committee. The purpose of such missions was not to condemn or criticize but to promote understanding of the Committee's role.

52. Mr. LORENZO considered that the Committee could perhaps reply by expressing its thanks to Ms. Diaz Palacios and the Mexican Government, and inviting them to propose a programme of work for the Committee's visit, indicating that the programme should enable the Committee members to talk with representatives of trade unions, churches and other non-governmental bodies, as well as with government authorities. The reply should also include a request for clarification about the financing of the visit.

53. Mr. DIPANDA MOUELLE said he wondered whether the Committee's rules of procedure covered such an invitation. If the Committee undertook a visit, presumably a report would be prepared. What would be the purpose of that report?

54. The CHAIRMAN said that, as he saw it, a visit could only take the form of an assistance mission consisting of one or two members of the Committee, having a well-defined programme based on questions of torture. Technical assistance could be provided from the Centre for Human Rights, and the visit would be financed by the host Government. His chief concern was that any

visit must be fully occupied by a programme of work and be clearly seen to imply no endorsement of the host Government's policies or activities, while at the same time avoiding the appearance of an inquiry.

55. Mr. LORENZO and Mr. BEN AMMAR agreed.

56. Mr. MIKHAILOV considered that the Committee should first contact Ms. Diaz Palacios informally in order to convey its concerns and questions.

57. The CHAIRMAN suggested that Mr. Gil Lavedra should perform that task.

58. It was so agreed.

The meeting rose at 5.55 p.m.